

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	February 8, 2018
Time of Incident:	11:30 a.m.
Location of Incident:	530 S. Homan Ave., Chicago, IL 60624
Date of COPA Notification:	February 9, 2018
Time of COPA Notification:	5:58 p.m.

Complainant, [REDACTED] ([REDACTED] alleged that he was unlawfully stopped without reasonable suspicion by Chicago police officers and that the Chicago police officers then detained him for an unreasonable amount of time. The stop occurred just outside the Kedzie-Homan CTA Blue Line stop. After a preliminary investigation by the Chicago police officers, [REDACTED] was transported to the [REDACTED] District police station. Subsequently, [REDACTED] was issued an Administrative Notice of Ordinance Violation (ANOV)¹. [REDACTED] further alleged that while at the [REDACTED] District police station he attempted to make a complaint regarding the incident and was prohibited from doing so.

II. INVOLVED PARTIES

Involved Officer #1:	[REDACTED] Star [REDACTED] Employee ID # [REDACTED] Date of Appointment: [REDACTED] 2007, Rank: Police Officer, Unit of Assignment: [REDACTED] DOB: [REDACTED] 1967, Female, White.
Involved Officer #2:	[REDACTED] Star [REDACTED] Employee ID # [REDACTED] Date of Appointment: [REDACTED] 2006, Rank: Police Officer, Unit of Assignment: [REDACTED] DOB: [REDACTED] 1972, Female, Hispanic.
Involved Officer #3:	[REDACTED] Star [REDACTED] Employee ID # [REDACTED] Date of Appointment: [REDACTED] 1994, Rank: Police Officer, Unit of Assignment: [REDACTED] DOB: [REDACTED] 1967, Female, White.
Involved Officer #4:	[REDACTED] Star [REDACTED] Employee ID # [REDACTED] Date of Appointment: [REDACTED] 1995, Rank: Sergeant, Unit of Assignment: [REDACTED] DOB: [REDACTED] 1971, Male, White.

¹ A citation/ticket issued by a Chicago police officer, inspector or investigator from a City department which cites the ordinance allegedly violated. The ANOV also includes the date, time, and location of the offense, identity of person named, with details to support the allegation.

Subject #1:	[REDACTED]	DOB: [REDACTED]	1975, Male, Black.
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III. ALLEGATIONS

Officer	Allegation	Finding
Officer [REDACTED] [REDACTED]	<p>It is alleged by [REDACTED] that on or about February 8, 2018 at approximately 11:30 a.m. at or near 530 S. Homen Ave., Chicago, IL that Officer [REDACTED] committed misconduct through the following acts or omissions:</p> <ol style="list-style-type: none"> 1. Detained [REDACTED] by stopping him without justification; 2. Detained [REDACTED] an unreasonable amount of time without justification; 3. Failed to search [REDACTED] prior to transport; 4. Searched [REDACTED] cell phone without justification; and 5. Deleted data from [REDACTED] cell phone. 	<p>Exonerated</p> <p>Exonerated</p> <p>Not Sustained</p> <p>Not Sustained</p> <p>Not Sustained</p>
Officer [REDACTED]	<p>It is alleged by [REDACTED] that on or about February 8, 2018 at approximately 11:30 a.m. at or near 530 S. Homen Ave., Chicago, IL that Officer [REDACTED] committed misconduct through the following acts or omissions:</p> <ol style="list-style-type: none"> 1. Detained [REDACTED] by stopping him without justification; 2. Detained [REDACTED] an unreasonable amount of time without justification; 3. Failed to search [REDACTED] prior to transport; 4. Searched [REDACTED] cell phone without justification; and 5. Deleted data from [REDACTED] cell phone. 	<p>Exonerated</p> <p>Exonerated</p> <p>Not Sustained</p> <p>Not Sustained</p> <p>Not Sustained</p>

Officer [REDACTED]	<p>It is alleged by [REDACTED] that on or about February 8, 2018 at approximately 11:30 a.m. at or near 3151 W. Harrison Ave., Chicago, IL that Officer [REDACTED] committed misconduct through the following acts or omissions:</p> <ol style="list-style-type: none"> 1. Failed to properly address [REDACTED] complaint of misconduct against other officers. 	Not Sustained
Sergeant [REDACTED]	<p>It is alleged by [REDACTED] that on or about February 8, 2018 at approximately 11:30 a.m. at or near 3151 W. Harrison Ave., Chicago, IL that Sergeant [REDACTED] committed misconduct through the following acts or omissions:</p> <ol style="list-style-type: none"> 1. Failed to properly address [REDACTED] complaint of misconduct against other officers. 	Not Sustained

IV. APPLICABLE RULES AND LAWS

Municipal Code of Chicago

1. 7-32-015: Smoking in public places, places of employment and governmental vehicles prohibited²

General Orders

1. G08-01-02: Specific Responsibilities Regarding Allegations of Misconduct

Federal Laws

1. United States Constitution, Amendment IV: Prohibits search and seizure without probable cause³

² "Unless an exemption contained in Section 035 of this chapter specifically applies, no person shall smoke in a public place or in any place of employment. No person may smoke in any vehicle owned, leased, or operated by the City of Chicago."

³ "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

V. INVESTIGATION⁴

a. Interviews

[REDACTED]

COPA investigators interviewed [REDACTED] on February 13, 2018. [REDACTED] told investigators that on February 8, 2018, he was stopped and detained by Chicago police officers without justification as he was walking toward the train. According to [REDACTED] he recorded his encounter with the officers on his phone. [REDACTED] was informed that he was stopped for smoking on CTA property, which he denied and insisted that he was smoking on his way to CTA property, but was not actually on CTA property.

The officers then radioed his name in to dispatch. Additionally, [REDACTED] claimed the officers were not wearing body worn cameras (BWCs). [REDACTED] explained that, according to Mayor Rahm Emmanuel all officers are supposed to be equipped with BWCs.⁵ [REDACTED] then heard over one of the officer's radios that an individual named [REDACTED] also known as [REDACTED] has a probation violation and a warrant. A transport vehicle comes and Officer [REDACTED] took [REDACTED] phone, so [REDACTED] can be transported. [REDACTED] claimed that he was never searched prior to transport.

At the station, [REDACTED] phone was returned to him after officers deleted his recordings from the incident, as [REDACTED] phone was not locked. He further claimed that the officers prolonged his detention by wasting time doing computer work. Finally, [REDACTED] was issued a citation. Following this, [REDACTED] went to the front desk and asked an Officer [REDACTED] if he could make a complaint, but she was dismissive to his request.⁶

Officer [REDACTED]

During an interview with COPA on July 11, 2018, Officer [REDACTED] responded to [REDACTED] allegations of misconduct. Officer [REDACTED] explained that on February 8, 2018, she and her partner, Officer [REDACTED] were working secondary employment and detailed to the CTA Blue Line. The officers were detailed to patrol the western portion of the CTA Blue Line. The officers were wearing their Chicago Police Department uniforms but are not assigned BWCs. And, they were assigned a CTA security vehicle and not a typical patrol vehicle.⁷

Regarding the stop of [REDACTED] Officer [REDACTED] explained that while her and her partner were driving, her partner witnessed [REDACTED] smoking a cigarette in the entrance-way of the Kedzie-Homan CTA Blue Line stop. Officer [REDACTED] explained that it is a violation to smoke within 15 feet of a public entrance/exit way within the City of Chicago. According to Officer [REDACTED] was within 15 feet from the entrance of the CTA stop. It was shortly after that her partner, executed a U-turn, stopped the vehicle and both officers approached [REDACTED]

⁴ The following is a summary of the material evidence gathered and relied upon in our analysis.

⁵ The involved officers were not working a regular beat patrol, but secondary employment detailed to the CTA. Thus, they were not required to be equipped with BWCs.

⁶ Attachment 7.

⁷ CTA security vehicles are not equipped with a PDT, in-car camera or a cage to transport individuals.

When approached, [REDACTED] seemed to be agitated and annoyed that he was being stopped by the police officers. [REDACTED] provided either his Illinois driver's license or Illinois state identification card to the officers. The officers relayed his information over to dispatch. Dispatch responded stating that a warrant was coming up with his name. Neither officer could remember the details of what the warrant was for but both remembered being informed of a possible warrant regarding [REDACTED]. The officers were not able to verify the information about a possible warrant for [REDACTED] because their CTA vehicle is not equipped with a Police Data Terminal ("PDT").⁸ Officer [REDACTED] unequivocally stated had they had access to a PDT they would not have [REDACTED] transported to the [REDACTED] District to verify the information being relayed from the dispatcher.

After receiving this information, [REDACTED] was placed in handcuffs and a protective pat-down was conducted. Officer [REDACTED] did not have an independent recollection of conducting the pat down herself and assumed that it was Officer [REDACTED] who completed the protective pat down. Officer [REDACTED] explained that she was not completely positive that she completed the protective pat down of [REDACTED] but thought that it was more probable than not that she did. Officer [REDACTED] said she keeps latex gloves with her and it is routine procedure that she follows to conduct a pat down.⁹

Officer [REDACTED]

During an interview with COPA on July 12, 2018, Officer [REDACTED] responded to the allegations listed above. Officer [REDACTED] interview was generally consistent with the statement provided by her partner, Officer [REDACTED]¹⁰

Officer [REDACTED]

During an interview with COPA on September 25, 2018, Officer [REDACTED] responded to the allegations listed above. Officer [REDACTED] confirmed that she was working on February 8, 2018 at the front desk of the [REDACTED] District.¹¹ However, she did not have an independent recollection of any encounter with [REDACTED] on the day in question or anytime ever. She went on to say that if a civilian does make a complaint, she is to refer them to her supervisor who would be the Desk Sergeant at the time.¹²

Sergeant [REDACTED]

During an interview with COPA on October 30, 2018, Sergeant [REDACTED] responded to the allegations listed above. Sergeant [REDACTED] only recalled he was working the front desk of the [REDACTED] District after he independently researched the A&A sheets for the time and date in question. Sergeant [REDACTED] was able to recall the process of taking a complaint and notifying COPA when he

⁸ The PDT is on-board computer system within a police officer's department issued vehicle which can send and receive information related to an officer's work duties.

⁹ Attachments 40 and 41.

¹⁰ Attachments 44.

¹¹ Officer [REDACTED] confirmed this after being tendered Attachment 19, the Attendance and Assignment record for Unit [REDACTED] 2nd Watch on February 8, 2018.

¹² Attachment 50.

is required to register a complaint. He knew there was a general order that dictates when to register a complaint but was not aware of the specific order.¹³ According to Sergeant [REDACTED] supervisors are required to take valid complaints. When asked what constituted a valid complaint, Sergeant [REDACTED] stated that complaints about parking or moving violations would not constitute a valid complaint where he would be required to create a log number and notify COPA. He further stated that complaints involving allegations of excessive force or physical contact would require a complaint to be registered and COPA notified. Outside of knowing he worked on the date in question, he could not recall the complainant or whether anyone made a complaint that day.

b. Documentary Evidence

The City of Chicago Administrative Notice of Violation documents that [REDACTED] was cited for violating the Municipal Code of Chicago 7-32-15 near 530 S. Homan Ave. on February 8, 2018, at approximately 11:30 a.m.¹⁴

The Office of Emergency Management and Communications Chicago Police Department Event Query Report documents that a transport vehicle was called for a possible warrant near the Kedzie-Homan Blue Line stop on February 8, 2018, at approximately 11:37 a.m. and that the officers ran [REDACTED] name showing a possible warrant under the name of [REDACTED]¹⁵

VI. ANALYSIS

a. Officers [REDACTED] and [REDACTED]

COPA recommends a finding of Exonerated for Allegation 1 against Officers [REDACTED] and [REDACTED]. The issue is whether Officers [REDACTED] and [REDACTED] unlawfully stopped [REDACTED]. The Municipal Code of Chicago provides that, "No person shall smoke in a public place or in any place of employment."¹⁶

The Fourth Amendment of the United States Constitution guarantees the right of individuals to be free from unreasonable searches and seizures. U.S. Const., amend. IV. The relevant analysis is whether Officers [REDACTED] and [REDACTED] had reasonable, articulable suspicion that [REDACTED] had violated any law, or was about to engage in criminal activity.

In the instant case, the purported reason Officers [REDACTED] and [REDACTED] stopped [REDACTED] was because they observed him smoking a cigarette within 15 feet of a CTA Blue Line stop entrance/exit. Neither officer could recount exactly where they observed [REDACTED] smoking, but both confirmed that Officer [REDACTED] initially observed the suspected violation. It was the officer's

¹³ The General Order Sergeant [REDACTED] was referring to is G08-01-02: Specific Responsibilities Regarding Allegations of Misconduct.

¹⁴ Attachment 8.

¹⁵ Attachment 9.

¹⁶ CHICAGO, ILL., CODE §7-32-015. "Public place" means that portion of any building or vehicle used by and open to the public, regardless of whether the building or vehicle is owned in whole or in part by private persons or entities, the City of Chicago, or any other public entity and regardless of whether a fee is charged for admission, including a minimum distance of 15 feet from entrances, exits, windows that open, and ventilation intakes that serve an enclosed area where smoking is prohibited. CHICAGO, ILL., CODE §7-32-010.

perception that [REDACTED] was standing within 15 feet of the CTA entrance. COPA finds it more probable than not that officers reasonably believed that [REDACTED] was smoking within the prohibited area of the CTA Blue Line stop.

First, both officers unequivocally explained during their interviews that Officer [REDACTED] observed [REDACTED] smoking near the CTA entrance. Second, [REDACTED] admitted during his interview with COPA investigators that he was smoking a cigarette on his way to the CTA Blue Line stop. Without any evidence such as POD camera footage, BWC footage or independent video it will remain unknown whether [REDACTED] was within 15 feet of the CTA entrance while smoking. Although COPA does not have direct evidence of where [REDACTED] was standing when he was smoking, COPA does not find the officers to be dishonest in their recounting of the incident. The only question is whether he was within 15 feet of the CTA entrance. [REDACTED] admission of smoking, coupled with the fact that the Officer [REDACTED] witnessed him smoking in what was perceived to be within a prohibited area gives the officers reasonable ground to stop and detain [REDACTED]. Thus, COPA recommends a finding of Exonerated for Allegation 1.

COPA recommends a finding of Exonerated for Allegation 2 against Officers [REDACTED] and [REDACTED]. The issue is whether the officers detained [REDACTED] for an unreasonable amount of time.

Here, the officers were working a secondary employment job through the CTA Voluntary Special Employment Program.¹⁷ Therefore, the officers were not equipped with body worn cameras nor were they equipped with a PDT in their vehicle.¹⁸ Under these circumstances, the officers are required to radio in name checks, which is what occurred in this case. In this case, a possible warrant came up under [REDACTED] name. With limited resources to verify the warrant as correct, the officer decided to transport [REDACTED] to the police station where additional resources were readily available to confirm if [REDACTED] seizure was subject to a valid warrant. It was not until [REDACTED] was at the police station that it was discovered he did not have a warrant. Accordingly, COPA does not believe [REDACTED] was detained for an unreasonable amount of time. Thus, COPA recommends a finding of Exonerated for Allegation 2.

COPA recommends a finding of Not Sustained for the remaining allegations (3-5) against Officers [REDACTED] and [REDACTED]. In large part, this follows the fact that there is insufficient evidence for COPA to prove or disprove the allegations.

In the absence of any body worn camera footage or any other video evidence whatsoever, it is impossible to know whether [REDACTED] was searched prior to being transported. However, it is the practice of the Chicago Police Department to conduct searches in these instances and it seems unlikely that none of the officers searched [REDACTED] because it is standard practice.

Then there is the allegation of searching [REDACTED] cell phone and deleting data from it. Without any evidence of this occurring it would be merely speculation on COPA's behalf that it did occur. COPA cannot find it more probable than not that the officers searched and deleted data from [REDACTED] just because there is no data substantiating [REDACTED] account of the incident. It is just as

¹⁷ Attachment 30.

¹⁸ Attachment 33. The vehicle driven by the officers is a CTA Security vehicle which is not equipped with a PDT or in-car camera.

likely that [REDACTED] did not record the incident at all. Without additional evidence, COPA is unable to prove or disprove this occurred.

b. Officer [REDACTED]

COPA recommends a finding of Not Sustained for Allegation 1 against Officer [REDACTED]. The issue is whether Officer [REDACTED] failed to take a complaint from [REDACTED]. Again, there is no direct evidence whether [REDACTED] attempted to make a complaint or not. Officer [REDACTED] did verify that she was working the front desk the date of the alleged incident. However, there is no direct evidence to prove or disprove [REDACTED] aggregation. Officer [REDACTED] was not able to remember an individual making a complaint on that date. Here, there is inadequate evidence to prove or disprove the allegation by a preponderance of the evidence. Accordingly, COPA recommends a finding of Not Sustained.

c. Sergeant [REDACTED]

Following the analysis above regarding Officer [REDACTED] and given the fact that the allegation is the same, COPA recommends a finding of Not Sustained for Allegation 1 against Sergeant [REDACTED]. The issue is whether Sergeant [REDACTED] failed to take a complaint from [REDACTED]. Again, there is no direct evidence whether [REDACTED] attempted to make a complaint or not. Sergeant [REDACTED] did verify that he was working the front desk the date of the alleged incident. However, there is nothing to prove or disprove the incident occurred. Sergeant [REDACTED] was not able to remember an individual making a complaint on that date. Thus, it leaves COPA to determine whether [REDACTED] attempted to make a complaint or not. Here, there is insufficient evidence to prove or disprove the allegation by a preponderance of the evidence. Accordingly, COPA recommends a finding of Not Sustained.

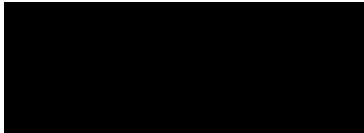
VII. CONCLUSION

Based on the analysis set forth above, COPA makes the following findings:

Officer	Allegation	Finding
Officer [REDACTED] [REDACTED]	<p>It is alleged by [REDACTED] on or about February 8, 2018 at approximately 11:30 a.m. at or near 530 S. Homen Ave., Chicago, IL that Officer [REDACTED] [REDACTED] committed misconduct through the following acts or omissions:</p> <ol style="list-style-type: none">1. Detained [REDACTED] by stopping him without justification;2. Detained [REDACTED] an unreasonable amount of time without justification;3. Failed to search [REDACTED] prior to transport;	<p>Exonerated</p> <p>Exonerated</p> <p>Not Sustained</p>

	4. Searched [REDACTED] cell phone without justification; and 5. Deleted data from [REDACTED] cell phone.	Not Sustained Not Sustained
Officer [REDACTED]	<p>It is alleged by [REDACTED] on or about February 8, 2018 at approximately 11:30 a.m. at or near 530 S. Homen Ave., Chicago, IL that Officer [REDACTED] committed misconduct through the following acts or omissions:</p> <ol style="list-style-type: none"> 1. Detained [REDACTED] by stopping him without justification; 2. Detained [REDACTED] an unreasonable amount of time without justification; 3. Failed to search [REDACTED] prior to transport; 4. Searched [REDACTED] cell phone without justification; and 5. Deleted data from [REDACTED] cell phone. 	Exonerated Exonerated Not Sustained Not Sustained Not Sustained
Officer [REDACTED]	<p>It is alleged by [REDACTED] on or about February 8, 2018 at approximately 11:30 a.m. at or near 3151 W. Harrison Ave., Chicago, IL that Officer [REDACTED] committed misconduct through the following acts or omissions:</p> <ol style="list-style-type: none"> 1. Failed to properly address [REDACTED] complaint of misconduct against other officers. 	Not Sustained
Sergeant [REDACTED]	<p>It is alleged by [REDACTED] on or about February 8, 2018 at approximately 11:30 a.m. at or near 3151 W. Harrison Ave., Chicago, IL that Sergeant [REDACTED] committed misconduct through the following acts or omissions:</p> <ol style="list-style-type: none"> 1. Failed to properly address [REDACTED] complaint of misconduct against other officers. 	Not Sustained

Approved:



January 16, 2019

Andrea Kersten

Deputy Chief Administrator – Chief Investigator

Date

Appendix A

Assigned Investigative Staff

Squad#:	
Investigator:	
Supervising Investigator:	

Deputy Chief Administrator:	Andrea Kersten
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